IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

    Walker, et al.

Serial No.: 09/893,112

Filed: June 27, 2001

Confirmation No.: 4872

Group Art Unit: 2452

Examiner: Doan, Duyen

Docket No. 10005039-1

For: **System and Method for Providing Access to a Resource**

REPLY BRIEF RESPONSIVE TO EXAMINER'S ANSWER

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

    The Examiner's Answer mailed June 9, 2009 has been carefully considered. In response thereto, please consider the following remarks.

AUTHORIZATION TO DEBIT ACCOUNT

    It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 08-2025.

REMARKS

The Examiner provided responses to various points raised in Applicant's Appeal Brief. Provided below are Applicant's replies to the Examiner's responses.

On pages 9 and 10 of the Appeal Brief, Applicant noted that Pugaczewski fails to disclose providing a graphical user interface (GUI) that enables an operator of a service provider to construct a connection between clients on remote client networks and service provider computers on a service provider network "using a process that is the same regardless of the configurations of the remote client networks", or constructing connections between "multiple different clients having different network configurations, the process used by the service provider operator to construct the VLAN using the GUI being the same regardless of the different network configurations". Specifically, the Abstract of the Pugaczewski reference, which was cited by the Examiner in support of the rejection, merely describes "a generic set of models so that different manufacturer's nodal processors and other network hardware can be inserted into the network with minimal changes to the software which controls the device". *Pugaczewski*, Abstract. Clearly, the mere identification of "a generic set of models" is *not* a disclosure of using a GUI to construct VLANs (or other connections) between "multiple different clients having different network configurations, *the process used by the service provider operator to construct the VLAN* using the GUI being the same regardless of the different network configurations" (emphasis added).

On page 7 of the Examiner's Answer, the Examiner now cites column 2, lines 3-16, column 4, lines 1-9, and column 9, lines 20-23 in support of the Examiner's position that Pugaczewski discloses constructing connections between clients and service

provider computers "using a process that is the same regardless of the configurations of the remote client networks". Applicant discusses each of those portions of the Pugaczewski reference below.

Column 2, lines 3-16 of the Pugaczewski reference provide:

> In carrying out the above object, a network management system for configuring a network connection between a first service access point and the second service access point over a network is provided. The network includes a plurality of subnets. Each subnet has a corresponding element type and includes at least one programmable element of that type. Each element type has a corresponding element manager. The system comprises an information manager and a configuration manager. The information manager includes routing information for the network. The information manager is operative to determine a route made up of links over the network from the first point to the second point. A network-to-network link connects a pair of adjacent subnets having elements of different types.

Pugaczewski, column 2, lines 3-16. As can be appreciated from the above excerpt, Pugaczewski merely indicates that a network link "connects a pair of adjacent subnets having elements of different types." Not expressed, however, is a graphical user interface that enables an operator to construct a connection between clients and service provider computers "using a process that is the same regardless of the configurations of the remote client networks". Indeed, <u>nothing</u> is stated about the process that the operator uses to make the connection.

Regarding column 4, lines 1-9 of the Pugaczewski reference, Pugaczewski discloses:

> . . . wherein the at least one interface screen includes an introduction screen having a plurality of buttons corresponding to introduction documentation. Further, in some embodiments, the at least one interface screen includes a provision screen that directs the system user to select the first and second service access points. Further, in some embodiments, the at least one interface screen includes at least one topology screen that illustrates the route over the network between the first and second access points.

Pugaczewski, column 4, lines 1-9. In the above excerpt, Pugaczewski indicates that there is an interface screen that directs a system user to select access points. Again, what the excerpt does not describe is a graphical user interface that enables an operator to construct a connection between clients and service provider computers "using a process that is the same regardless of the configurations of the remote client networks". There is no indication by Pugaczewski that the process is the same regardless of the configurations of the remote client networks.

Finally, with regard to column 9, lines 19-23 of the Pugaczewski reference, Pugaczewski discloses:

> Of course, as mentioned previously, embodiments of the present invention are not limited to a particular type of network connection, and ATM over DSL (and other DSL approaches such as Frame Relay/DSL) is just an example.

Pugaczewski, column 9, lines 19-23. The above excerpt makes clear that multiple types of network connections can be made. As before, however, not described is a graphical user interface that enables an operator to construct a connection between clients and service provider computers "using a process that is the same regardless of the configurations of the remote client networks".

In view of the above, it is clear that, contrary to that alleged by the Examiner, Pugaczewski does not in fact disclose providing a graphical user interface (GUI) that enables an operator of a service provider to construct a connection between clients on remote client networks and service provider computers on a service provider network "using a process that is the same regardless of the configurations of the remote client networks" or constructing connections between "multiple different clients having different network configurations, the process used by the service provider operator to construct the VLAN using the GUI being the same regardless of the different network configurations". Instead, Pugaczewski simply describes a system in which a user can make various types of connections using a user interface.

Regarding the Examiner's allegation that it would have been obvious to modify Pugaczewski's system to provide a graphical user interface (GUI) that enables an operator of a service provider to construct a connection between clients on remote client networks and service provider computers on a service provider network "using a process that is the same regardless of the configurations of the remote client networks", Applicant notes that the Examiner cites no prior art teachings in support of his position, which is being presented for the first time in the Examiner's Answer. Instead, the Examiner merely presumes obviousness without basis. While the KSR decision makes
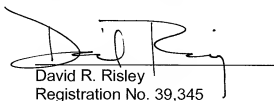
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clear that the teaching, suggestion, motivation test need not be satisfied to find obviousness, the Examiner still has a duty to present an articulated reasoning to support his finding and not mere conclusory statements. *KSR v. Teleflex*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting *In re Kahn,* 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). In this case, the Examiner simply concluded obviousness: "It is obvious to one with an ordinary skill in the art would realized that utilized a method, a GUI to initiate a connection build regardless of client networks." Clearly, that is not an articulated reasoning that the Supreme Court was referring to in the KSR decision. Moreover, it is clear that the modification suggested by the Examiner would only have been obvious using improper hindsight to Applicant's own disclosure.

For the foregoing reasons, Applicant respectfully requests that the rejections of claims 1-4, 6, and 12-16 be reversed.

CONCLUSION

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

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